IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

WEDNESDAY, THE 21ST FEBRUARY 2007 / 2ND PHALGUNA 1928

WP(C).No. 33503 of 2006(L)

PETITIONER:

G.ANILKUMAR,
AGED 46 YEARS, S/O.P.GOPALAKRISHNAN,
ADMINISTRTIVE OFFICER,
THIRUNAKKARA TEMPLE, KOTTAYAM.

BY ADV. SRI.S.JAYAKRISHNAN

RESPONDENTS:
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1. THE TRAVANCORE DEVASWOM BOARD,
THIRUVANANTHAPURAM, REP. BY ITS SECRETARY.

2. THE DEVASWOM COMMISSIONER,
TRAVANCORE DEVASWOM BOARD,
THIRUVANANTHAPURAM.

BY SHRI.ANCHAL C. VIJAYAN, SC, TDB.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.K.DENESAN, J.

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WP(C).No.33503 OF 2006-L.
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Dated this the 21st day of February, 2007.

J U D G M E N T

The petitioner is working as Administrative Officer, Thirunakkara Temple in Kottayam district. He made a request for transfer to any of the following places, namely, Pamba, Malayalappuzha and Ettumanoor. The request has been turned down as per Ext.P3 informing the petitioner, among other, that since an enquiry is being conducted into the allegations that certain receipt books were not available for audit during the tenure of the petitioner as Administrative Officer at Vaikom, the request of the petitioner cannot be considered favourably. Counsel for the petitioner submits that the petitioner cannot be held for the missing or misplacing the receipt books and a request for transfer ought not to have been rejected on such grounds.

2. In the counter-affidavit filed by the respondent, it is stated that primary report filed by the Deputy Devaswom Commissioner on 20-12-2005 shows that the petitioner and one Sri.Vijayan Pillai were responsible for

the act of misplacing the receipt books and that the same could be traced out subsequently after much effort and that the explanation of the concerned incumbents will have to be called for. It is also submitted that appropriate notice has already been issued to the petitioner and Sri.Vijayan Pillai. Counsel for the petitioner submits that the petitioner has submitted his explanation in reply to the notice.

3. I do not think that the reasons stated in Ext.P3, for rejecting the request for transfer made by the petitioner, are not germane to the question involved. When enquiry is being conducted into the missing of records, particularly relating to accounts, persons who were in office during the relevant period are liable to be called upon to offer their explanation. Until a decision is taken, after considering the explanation from the concerned incumbents, it is open to the Devaswom Board to postpone the consideration of the request made by such incumbents for transfers and postings to places of their choice. Transfer to the place of choice cannot be claimed as a matter of right. The administration has always got a say in such matters. When decision is taken based on relevant materials and considerations, it is not proper for

this Court to grant reliefs against such decisions.

4. The petitioner will have to wait till the enquiry now being conducted into the missing or misplacing of receipt books is completed. I make it clear that after completing action, if any, on Ext.R1(a) report, it will be open to the respondent Board to reconsider Ext.P3 as also the request made by the petitioner for posting him in a place of his choice. Appropriate orders shall then be passed, in accordance with the norms.

With the above directions, the writ petition is disposed of.

K.K.DENESAN, JUDGE.

kvs/-